



ARIZONA DEPARTMENT OF ADMINISTRATION
STATE PROCUREMENT OFFICE

TECHNICAL BULLETIN No. 005

TITLE **Arizona Set-Aside Procurement Program**
REVISION **Number 2**

I. Authority

A. Applicable Statute

- A.R.S. § 41-2636 Set-Aside Procurement Program
- A.R.S. § 41-2637 Compliance with Federal Requirements
- A.R.S. § 41-2531 Source Selection and Contract Formation
- A.R.S. § 41-2512 Delegation of Authority by the Director

B. Applicable Administrative Code

- A.A.C. R2-7-1003 Establishing of a Committee as Required by A.R.S. § 41-2636
- A.A.C. R2-7-1004 Certification as Non-Profit Agency for Disabled Individuals
- A.A.C. R2-7-1005 Application for Approval to Become a Certified Non-Profit Agency for Disabled Individuals
- A.A.C. R2-7-1006 Approval of Specific Materials or Services for Set-Aside Use
- A.A.C. R2-7-1007 Contract Awards Directed by the Committee
- A.A.C. R2-7-1008 Contract Awards Initiated by an Agency Chief Procurement Officer or Local Procurement Unit
- A.A.C. R2-7-1009 Set-Aside Application Dispute Process

C. Applicable Technical Bulletins

- SPO Technical Bulletin No. 001 Delegation of Procurement Authority

II. Revision Note

This Technical Bulletin revises and supersedes AzSPO Policy and Procedure #14 (issued December 7, 2006).



III. Specific Authority

A.R.S. § 41-2636 Subsection D and E. Set-Aside Procurement Program. Notwithstanding the requirements of section A.R.S. § 41-2532, State Governmental Units and local public procurement units may purchase or contract for any products, materials and services directly from Arizona Industries for the Blind (AIB), certified non-profit agencies for disabled individuals and Arizona Correctional Industries (ACI) without competitive bidding if the delivery and quality of the products, materials and services meet the unit's reasonable requirements.

Until July 1, 2009, all State Governmental Units shall endeavor to set aside at least one percent of their new purchases or contracts for any products, materials and services from the entities that are prescribed in subsection D.

IV. Definitions

Where set forth in normal font, the following definitions are directly from the Arizona Procurement Code. Expanded or additional definitions are in *Italics* from sources noted.

- A. **Agency Chief Procurement Officer** means the person within a purchasing agency, as identified by the state governmental agency head, who is acting under specific, written authority from the State Procurement Administrator in accordance with R2-7-202 or any person delegated that authority, in writing, under R2-7-203. The term does not include any other procurement officer or person within a State Governmental Unit who does not have this written delegation of authority.
- B. **Arizona State contract** means a contract established or authorized by the State Procurement Administrator for use by State Governmental Units and eligible procurement units.
- C. **CNADI or Certified Non-Profit Agencies for Disabled Individuals** means a nonprofit activity center or sheltered workshop that satisfies all of the following: a) Is organized under the laws of this state or another state, is operated in the interest of disabled individuals and the net income of which does not inure in whole or in part to the benefit of any shareholder or other individual; b) Complies with any applicable occupational health and safety standard required by the laws of the United States and this state.
- D. **Disabled individual** means an individual who, because of the nature of the individual's disabilities, is not able to fully participate in competitive employment and for whom specialized employment opportunities must be provided.
- E. **Governor's Executive order** means *an order issued by the Governor of Arizona to establish boards or commissions or to authorize the performance of other functions that are appropriate to the executive authority of the Governor. (Source: AZ State Library, Archives and Public Records, Law and research Library Div.)*



- F. **Local public procurement unit** means any political subdivision, any agency, board, department, or other instrumentality of such political subdivision and any non-profit corporation created solely for the purpose of administering a cooperative purchase.
- G. **Set-aside agencies** means the Arizona Correctional Industries, Arizona Industries for the Blind and nonprofit agencies for disabled individuals certified by the state for the purpose of being eligible for set-aside contracts.
- H. **State Governmental Unit** means any department, commission, council, board, bureau, committee, institution, agency, government corporation or other establishment or official of the executive branch or corporation of this state.

V. Statement of Policy

It is the policy of the State of Arizona that:

- A. In accordance with A.R.S. § 41-2636, competition is not required to purchase or enter into a contract for products, materials or services offered by set-aside agencies if:
 - 1. The delivery and quality of the products, materials or services meet the State Governmental Unit's reasonable requirements; and
 - 2. The products, materials or services are not covered under an existing Arizona state contract.
 - 3. The price of the product or service is fair and reasonable.
- B. The agency Chief Procurement Officer shall purchase from any set-aside contract that has been approved and established as a mandatory contract by the Arizona State Set-Aside Procurement Program.
- C. State Governmental Units electing to utilize this purchasing method shall employ appropriate diligence to ensure:
 - 1. That the product, material or service is not directly covered under an existing Arizona state contract;
 - 2. That the delivery and quality of the product, material or service can meet the State Governmental Unit's reasonable requirements;
 - 3. That the price of the product, material or service is fair and reasonable before initiating a direct purchase;
 - 4. That the total amount of the purchase, including any options to extend is within the State Governmental Unit's delegated purchasing authority.
- D. Any local public procurement unit may use the set-aside procurement program at their discretion.



Effective

This Technical Bulletin is hereby effective this 6th day of May, 2008, unless otherwise revised or repealed.

Statute, Administrative Rule, and Executive Orders shall prevail in the event of a discrepancy between this policy and applicable Statute, Administrative Rule, or Executive Orders.

Signature

A handwritten signature in blue ink that reads "Jean A. Clark".

Jean A. Clark, CPPO, C.P.M., CPPB, CPM
State Procurement Administrator